

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0578-MLM-E TCEQ ID: RN105370001 CASE NO.: 35688
RESPONDENT NAME: SAMUEL FACHORN

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2877 County Road 216, Burleson County.</p> <p>TYPE OF OPERATION: private property</p> <p>SMALL BUSINESS: N/A</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired August 24, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Tommy Tucker Henson II Litigation Division, MC 175, (512) 239-0946 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Air Enforcement Section, MC 149, (512) 239-2134 TCEQ Regional Contact: Mr. Gary Goldman, Waco Regional Office, MC R-9, (254) 761-3008 Respondent: Mr. Samuel Fachorn, 302 North Moore, Caldwell, Texas 77836 Respondent's Attorney: Mr. Larry G. Holt, Attorney at Law, 1707 Broadmoor, Suite 103, Bryan, Texas 77802</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 26, 2008</p> <p>Date of NOE Relating to this Case: March 10, 2008</p> <p>Background Facts: The EDPRP was filed on December 29, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on June 25, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation certifying compliance.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to comply with the general prohibition of outdoor burning within the state of Texas [30 TEX. ADMIN. CODE§ 111.201 and TEX. HEALTH & SAFETY CODE§ 382.085]. Failed to comply with the general prohibition of dumping or disposal of municipal solid waste within the state of Texas [30 TEX. ADMIN. CODE § 330.15(c)]. 	<p>Total Assessed: \$3,142</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$142/\$3,000</p> <p>The Respondent paid \$142 of the administrative penalty. The remaining amount of \$3,000 shall be payable in 24 monthly payments of \$125 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, cease disposing of any additional waste and shall cease all unauthorized burning at the site. Within 30 days, ensure that all unauthorized waste is removed, including burned material, and properly disposed of at an authorized facility. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

TCEQ

DATES	Assigned	10-Mar-2008	Screening	31-Mar-2008	EPA Due	
	PCW	21-Nov-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Samuel Fachorn
Reg. Ent. Ref. No.	RN105370001
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	35688	No. of Violations	2	
Docket No.	2008-0578-MLM-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Bryan Elliott	
Multi-Media	Municipal Solid Waste	EC's Team	Enforcement Team 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 10% Enhancement Subtotals 2, 3, & 7 **\$200**

Notes: Penalty enhanced due to two NOVs for same or similar violations.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts 0% Enhancement* Subtotal 6 **\$0**
 Approx. Cost of Compliance \$1,009 *Capped at the Total EB \$ Amount
\$2,264

SUM OF SUBTOTALS 1-7 Final Subtotal **\$2,200**

OTHER FACTORS AS JUSTICE MAY REQUIRE 43% Adjustment **\$942**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the avoided cost associated with the violation.

Final Penalty Amount **\$3,142**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$3,142**

DEFERRAL 0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$3,142**

Screening Date 31-Mar-2008

Docket No. 2008-0578-MLM-E

PCW

Respondent Samuel Fachorn

Policy Revision 2 (September 2002)

Case ID No. 35688

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN105370001

Media [Statute] Air

Enf. Coordinator Bryan Elliott

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Penalty enhanced due to two NOVs for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 31-Mar-2008		Docket No. 2008-0578-MLM-E		PCW																	
Respondent Samuel Fachorn		<small>Policy Revision 2 (September 2002)</small>																			
Case ID No. 35688		<small>PCW Revision April 29, 2008</small>																			
Reg. Ent. Reference No. RN105370001																					
Media [Statute] Air																					
Enf. Coordinator Bryan Elliott																					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)</div>																			
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to comply with the general prohibition of outdoor burning within the state of Texas. Specifically, the Respondent burned unauthorized materials, which included tires and various metals, as documented during an investigation conducted on February 26, 2008.</div>																			
Base Penalty					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>																
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <td style="text-align: center;">Release</td> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td style="text-align: center;">X</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>						Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	X	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
		Harm																			
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	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	X																	
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Percent					<div style="border: 1px solid black; padding: 2px; text-align: center;">10%</div>																
>> Programmatic Matrix																					
Matrix Notes	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td></td> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>						Major	Moderate	Minor	Falsification	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>								
		Major	Moderate	Minor																	
	Falsification	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																	
	Percent					<div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>															
Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.																					
Adjustment					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$9,000</div>																
					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>																
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>	Number of violation days		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																
<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty			<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>															
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	single event	X																			
One single event is recommended.																					
Economic Benefit (EB) for this violation			Statutory Limit Test																		
Estimated EB Amount			<div style="border: 1px solid black; padding: 2px; text-align: center;">\$942</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,571</div>															
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,571</div>																

Economic Benefit Worksheet

Respondent Samuel Fachorn
Case ID No. 35688
Reg. Ent. Reference No. RN105370001
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$942	26-Feb-2008	26-Feb-2008	0.00	\$0	\$942	\$942
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Cost to collect and dispose of approximately 15 cubic yards of waste (that was burned) at a permitted municipal solid waste landfill. Date required and the final date is the date of the investigation.

Approx. Cost of Compliance

\$942

TOTAL

\$942

Screening Date 31-Mar-2008

Docket No. 2008-0578-MLM-E

PCW

Respondent Samuel Fachorn

Policy Revision 2 (September 2002)

Case ID No. 35688

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN105370001

Media [Statute] Air

Enf. Coordinator Bryan Elliott

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to comply with the general prohibition of dumping or disposal of municipal solid waste within the state of Texas. Specifically, tires and various metals were disposed at an unauthorized site, as documented during an investigation conducted on February 26, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (February 26, 2008) to the screening date (March 31, 2008).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$67

Violation Final Penalty Total \$1,571

This violation Final Assessed Penalty (adjusted for limits) \$1,571

Economic Benefit Worksheet

Respondent Samuel Fachorn
Case ID No. 35688
Reg. Ent. Reference No. RN105370001
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,322	26-Feb-2008	1-Mar-2009	1.01	\$67	n/a	\$67
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Cost to collect and dispose of approximately 30 cubic yards of waste. Date required is the date of the investigation and the final date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,322

TOTAL

\$67

Compliance History

Customer/Respondent/Owner-Operator: CN603263880 FACHORN, SAMUEL Classification: AVERAGE Rating: 3.01
 Regulated Entity: RN105370001 2877 COUNTY ROAD 216 Classification: AVERAGE BY Site Rating: 3.01
 ID Number(s):
 Location: 2877 COUNTY ROAD 216, BURLESON COUNTY, TX Rating Date: 9/1/2007 Repeat Violator: NO
 TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: April 09, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 09, 2003 to April 09, 2008
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: LaMia Handy Phone: (713) 767-3682

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 03/07/2008 (637015)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Same-1 Date: 11/27/2007 (609229)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter B 111.201
 30 TAC Chapter 330, SubChapter A 330.15(c)
 5C THSC Chapter 382 382.085(b)

Same-2 Description: Failure to comply with outdoor burning rules of the State of Texas.
 Date: 12/21/2007 (609770)
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 330, SubChapter A 330.15(a)(1)
 Description: Failure to prevent the unauthorized discharge of municipal solid waste into or adjacent to waters of the state.

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SAMUEL FACHORN
RN105370001

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0578-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Samuel Fachorn ("Mr. Fachorn") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Fachorn, represented by Larry G. Holt, Attorney at Law, appear before the Commission and together stipulate that:

1. Mr. Fachorn owns property located at 2877 County Road 216 in Burleson County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TCEQ rules.
3. The Commission and Mr. Fachorn agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Fachorn is subject to the Commission's jurisdiction.
4. Mr. Fachorn received notice of the violations alleged in Section II ("Allegations") on or about March 15, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Fachorn of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand one hundred forty-two dollars (\$3,142.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Fachorn paid one hundred forty-two dollars (\$142.00) of the

administrative penalty. The remaining amount of three thousand dollars (\$3,000.00) of the administrative penalty shall be payable in twenty-four (24) monthly payments of one hundred twenty-five dollars (\$125.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Fachorn fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Mr. Fachorn's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Fachorn to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Fachorn agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Fachorn has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on February 26, 2008, a TCEQ Waco Regional Office investigator documented that Mr. Fachorn violated:
 - a. 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to comply with the general prohibition of outdoor burning within the state of Texas.

- b. 30 TEX. ADMIN. CODE § 330.15(c), by failing to comply with the general prohibition of dumping or disposal of municipal solid waste within the state of Texas.
2. Mr. Fachorn received notice of the violations on or about March 15, 2008.

III. DENIALS

Mr. Fachorn generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Fachorn pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Mr. Fachorn's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Samuel Fachorn, Docket No. 2008-0578-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Fachorn shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Mr. Fachorn shall cease disposing of any additional waste at the Site and shall cease all unauthorized burning at the Site;
 - b. Within 30 days after the effective date of this Agreed Order, Mr. Fachorn shall ensure that all unauthorized waste, including burned material, at the Site is removed and properly disposed of at an authorized facility; and
 - c. Within 45 days after the effective date of this Order, Mr. Fachorn shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Fachorn shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Gary Goldman, Air Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826

and

Frank Burleson, Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Fachorn. Mr. Fachorn is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

4. If Mr. Fachorn fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Fachorn's failure to comply is not a violation of this Agreed Order. Mr. Fachorn shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Fachorn shall notify the Executive Director within seven days after Mr. Fachorn becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Fachorn shall be made in writing to the Executive Director. Extensions are not effective until Mr. Fachorn receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Fachorn in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Fachorn, or three days after the date on which the Commission mails notice of the Order to Mr. Fachorn, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Wagner Perdue
For the Executive Director

8/10/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

Samuel Fachorn
Signature

6/25/09
Date

Samuel Fachorn
Name (Printed or typed)

Owner
Title